



## Legislation Text

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**File #:** 18-1852, **Version:** 1

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Community Development Services, Planning and Building Department recommending the Board take the following final actions:

1) Certify the California Environmental Quality Act (CEQA) Addendum to the El Dorado County Targeted General Plan Amendment/Zoning Ordinance Update (TGPA/ZOU) Final Program Environmental Impact Report (EIR) that (a) revises responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24; and, (b) revises the Executive Summary Section ES.5 (Potential Areas of Controversy/ Issues to be Resolved) to fairly present the disagreement between the County and the California State Board of Forestry and Fire Protection (Exhibit A); and 2) Adopt and authorize the Chair to sign Resolution **244-2018**, which certifies the CEQA Addendum to the Final Program EIR (FEIR) for the Targeted General Plan Amendment and Zoning Ordinance Update (Exhibit B). (Est. Time: 30 Min.)

**FUNDING:** N/A

### **DISCUSSION / BACKGROUND**

On December 15, 2015, the Board of Supervisors adopted Resolution 195-2015, certifying the Final Program EIR for the TGPA/ZOU.

On April 25, 2018, the El Dorado County Superior Court held a hearing in Department 9 on the case entitled Rural Communities United v. El Dorado County Board of Supervisors (Case No. PC-20160024). The Honorable Judge Stracener made a tentative ruling in which the Court ordered partial decertification of the Final Program EIR for the TGPA/ZOU only to the responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24 (in the FEIR Chapter 9, Responses to Comments), and the portion of the FEIR [Executive Summary Section ES.5 (Potential Areas of Controversy/Issues to be Resolved)] related to the disagreement between the California State Board of Forestry and Fire Protection and the County concerning the project and the requirements to comply with Government Code, Sections 65302(G)(1) and 65302(G)(3)(C); and otherwise rejected all of Petitioner's claims.

On May 16, 2018, the El Dorado County Superior Court signed, filed and served on the parties its final Ruling Following Oral Argument and adopted its tentative ruling as the final ruling with minor modifications and corrections and a few additional comments/rulings on some of the oral arguments made at the hearing.

On July 25, 2018, the Court signed and filed a formal judgment that did not change any of the provisions of the final Ruling Following Oral Argument and issued a writ of mandamus. The writ directs the County to (a) partially decertify the EIR only as it relates to the specific responses to comment numbers O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24, and, (b) partially decertify the portion of the EIR [Executive Summary Section ES.5 (Potential Areas of Controversy/Issues to be Resolved)] related to the disagreement between the California State Board of Forestry and Fire Protection and the County concerning the project and the requirements to comply with Government Code Sections 65302(g)(1) and 65302(g)(3)(c).

On September 18, 2018, as directed by the writ of mandate, the Board of Supervisors adopted Resolution 197-2018 which decertified specific limited components of the TGPA/ZOU Final Program EIR as follows: only as to (a) the specific responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24; and, (b) Executive Summary Section ES.5 (Potential Areas of Controversy/ Issues to be Resolved). All remaining portions of the FEIR remain certified and all TGPA/ZOU project approvals remain valid.

The writ of mandate issued by the court further directs the County to refrain from further certification and approvals concerning the above-cited responses to comments and disagreement between the California State Board of Forestry and Fire Protection until the County complies with the requirements to provide sufficient responses to the specified comments and to fairly present the disagreement between the County and the Board of Forestry within the body of the FEIR.

To comply with the directions of the writ of mandate, the County drafted a CEQA Addendum to the El Dorado County TGPA/ZOU Final Program EIR which includes clarified and revised responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24 and a revised Executive Summary Section ES.5 (Potential Areas of Controversy/ Issues to be Resolved). Although CEQA provides that the failure to include a summary in an EIR is not a cause of action (Public Resources Code Section 21061), the County is amending the Executive Summary to include the disagreement with the California State Board of Forestry and Fire Protection as directed by the Court.

The Addendum consists of clarifications and minor revisions and additions that do not rise to the level of significance that would require recirculation under CEQA statutes and guidelines; however, in the interest of transparency, the County released the CEQA Addendum for public review and comment.

On September 27, 2018, the County released a Notice of Availability (NOA) of an Addendum to the El Dorado County TGPA/ZOU Final Program EIR for public and agency review and comment for a 14-day period ending at 5:00 PM on Thursday, October 11, 2018. The County received letters with written comments submitted by one agency, the California State Board of Forestry and Fire Protection, and one organization, Rural Communities United (RCU). Responses to comments received during the public review period of the CEQA Addendum are summarized in the attached staff report (Attachment X) and are included in Exhibit A - Addendum to the TGPA/ZOU Final Program EIR.

The proposed action today is in response to the directions in the writ. Staff is requesting the Board of Supervisors certify new responses to the specific comment numbers identified in the writ and the explanation of the disagreement between the California State Board of Forestry and Fire Protection and the County. The County will return to the Court with the new responses to demonstrate compliance with the writ.

The remaining portions of the EIR are and remain certified. All other actions the Board of Supervisors took on December 15, 2015 are and remain in effect. Staff will continue to review all discretionary applications during this period for consistency with the writ. Applications deemed to conflict with the writ will be continued off-calendar or not scheduled for public hearings until the County has complied with the Court's decision. Discretionary applications consistent with the writ will be processed normally.

## **ALTERNATIVES**

N/A

**PRIOR BOARD ACTION**

On December 15, 2015, the Board of Supervisors adopted Resolution 195-2015, certifying the Final Program EIR for the TGPA/ZOU. [Legistar File 11-0356, Attachment 27, Executed Resolution 195-2015 (12-15-15).pdf]

On September 18, 2018, the Board of Supervisors adopted Resolution 197-2018 which decertified specific limited components of the TGPA/ZOU Final Program EIR as follows: only as to (a) the specific responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24; and, (b) Executive Summary Section ES.5 (Potential Areas of Controversy/ Issues to be Resolved). [Legistar File 18-1407, Attachment 3, Executed Resolution 197-2018]

**OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Chief Administrative Office, County Counsel

**CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

**FINANCIAL IMPACT**

There is no financial impact associated with this agenda item.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

1) Obtain the Chair's signature on the Resolution and provide a fully executed copy to the Planning and Building Department, Attention: Cindy Johnson.

**STRATEGIC PLAN COMPONENT**

Good Governance

**CONTACT**

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